

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

CALVIN VINSON, JR.,

Plaintiff,

v.

Case No. 2:09-cv-46  
HON. R. ALLAN EDGAR

GERALD RILEY, et al.,

Defendants.

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**MEMORANDUM AND ORDER**

Defendants Gerald Riley and Denise Gerth move for partial summary judgment pursuant to Fed. R. Civ. P. 56. [Court Doc. No. 79]. Defendants Riley and Gerth seek dismissal of the plaintiff's claims for: (1) damages under the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc *et seq.*; and (2) injunctive relief under 42 U.S.C. § 1983 based on alleged violations of the plaintiff's rights protected by the First and Fourteenth Amendments to the United States Constitution, i.e. First Amendment right of freedom to exercise religious beliefs and Fourteenth Amendment right to equal protection of the law.

Plaintiff Calvin Vinson, Jr. moves for summary judgment pursuant to Fed. R. Civ. P. 56. [Court Doc. No. 68]. Plaintiff Vinson contends that he is entitled to summary judgment on his claims against defendants Riley and Gerth under RLUIPA and 42 U.S.C. § 1983.

On June 28, 2012, Magistrate Judge Timothy P. Greeley submitted his report and recommendation. [Court Doc. No. 96]. It is recommended that the defendants' motion for partial summary judgment be granted, and the plaintiff's motion for summary judgment be denied.

The parties have not timely filed any objections to the Magistrate Judge's report and

recommendation. After reviewing the record, the Court ACCEPTS and ADOPTS the report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b).

The motion by defendants Riley and Gerth for partial summary judgment [Court Doc. No. 79] is GRANTED as follows. The plaintiff's claim for damages under RLUIPA must be dismissed. *Sossaman v. Texas*, 131 S.Ct. 1651 (2011). Because plaintiff Vinson only seeks to recover money damages under RLUIPA and not injunctive relief, his entire RLUIPA claim is DISMISSED WITH PREJUDICE. The plaintiff's claims for injunctive relief under 42 U.S.C. § 1983 based on alleged violations of rights protected by the First and Fourteenth Amendments to the United States Constitution are DISMISSED WITHOUT PREJUDICE.

For the reasons expressed in the report and recommendation, the plaintiff's motion for summary judgment [Court Doc. No. 68] is DENIED. The plaintiff's RLUIPA claim for damages is dismissed with prejudice in accordance with *Sossaman*, 131 S.Ct. 1651. With regard to the claims for damages brought under 42 U.S.C. § 1983, there are genuine issues of material fact in dispute which preclude granting summary judgment in the plaintiff's favor under Rule 56.

The only claims that remain before this Court for adjudication are plaintiff Vinson's claims against defendants Riley and Gerth for damages under 42 U.S.C. § 1983 based on alleged violations of the plaintiff's rights protected by the First and Fourteenth Amendments to the United States Constitution.

SO ORDERED.

Dated: 8/2/2012

/s/ R. Allan Edgar

R. ALLAN EDGAR  
UNITED STATES DISTRICT JUDGE